



Northern California Water Association Land Acquisition Policy
Adopted by NCWA's Board of Directors on June 16, 1999

Responsible Land Acquisition for Environmental Purposes

The Northern California Water Association (NCWA) represents sixty-six agricultural water districts and agencies, private water companies, and individual water rights holders with senior rights and entitlements to surface waters in the Sacramento Valley. NCWA's members also have overlying and appropriative water rights to groundwater resources in Northern California, from the northern reaches of Tehama County to Sacramento County, from the edge of the Sierra Nevada Mountains in El Dorado County to Glenn County which extends to the Coast range.

Background

NCWA supports the protection and restoration of California's fish and wildlife species and their related habitat. In fact, NCWA members have initiated many innovative projects to restore species and habitat throughout the Sacramento Valley region. State and federal agencies, however, are increasingly focused on acquiring farmland in Northern California along the Sacramento, Feather, Yuba, and American rivers and associated tributaries to achieve various environmental restoration and enhancement goals. Unfortunately, these different programs, if not implemented in a responsible and coordinated manner, will threaten important economic, social and environmental values in the Sacramento Valley region.

The purported goal of these projects is laudable – the reactivation of natural processes such as river meander areas and riparian forests to enhance habitat for fish and wildlife species. Many of these actions, however, are not practical in a state with more than 33 million people, all of whom rely upon the state's agricultural resources and many of whom live in floodplains. These actions may result in unpredictable and changing river conditions that could directly impact agricultural diversions and protective fish screens, and may increase conflicts with state and federal endangered species regulations. These acquisitions may also adversely affect the viability, operation and management of local agencies that provide necessary water supply, drainage, flood control, bank protection, and other services to area landowners.

NCWA intends to utilize the following principles to guide the association's actions on land acquisition projects designed to reactivate natural processes along the Sacramento River and its tributaries for the benefit of fish and wildlife, including promotion of stream meander belts, enhancement of riverine corridor vegetation, and creation of overflow areas.

Principles

1. **Single Program.** The CALFED Bay-Delta Program (CALFED), its successor and/or a related multi-agency entity shall consolidate all existing state and federal programs with authority to acquire land or easements for habitat purposes under a single program with consistent standards and public involvement requirements. A representative public process shall be established to ensure that local, state and federal agencies, water suppliers, landowners, and other interested parties are given notice of proposed acquisitions and afforded an advisory role in the program.
2. **Programmatic Plan.** CALFED, its successor and/or a multi-agency entity shall develop a comprehensive, programmatic plan that will include all existing and proposed habitat land acquisition efforts in the Sacramento Valley region and elsewhere in the Central Valley. The plan shall address the individual and cumulative impacts these activities may have upon the economy, society and environment of the region, as well as the effects upon local governments. This plan should be included as part of the CALFED Programmatic Environmental Impact Statement/Environmental Impact Report and shall include an agricultural mitigation program in large part developed by the California Department of Food and Agriculture and the United States Department of Agriculture.
3. **Environmental Review.** Project sponsors, including state and federal agencies, shall initiate National Environmental Policy Act and/or California Environmental Quality Act review prior to all land acquisition or easement development proceedings, including acquisitions from non-profit organizations. Project sponsors shall also notify local governments and all landowners that may potentially be affected by the proposed projects. Additionally, for all site specific land acquisitions and habitat restoration proposals, a representative public process shall be developed to determine how specific actions are prioritized and selected – and to work with local interests to effectively implement these programs.

4. **Land Use Authority.** CALFED, its successor or a multi-agency entity shall acknowledge and formally recognize that land use authority resides in California counties and cities. No CALFED action shall in any way diminish the authority held by counties and cities.
5. **Comprehensive Flood Control Assessment.** CALFED, its successor or a multi-agency entity shall prepare a comprehensive flood control assessment that includes the following two elements: a) identification of all "hard points," such as diversions, fish screen facilities, infrastructure, and necessary bank protection projects; and b) identification of all proposed floodplain and floodway changes due to actions such as levee setbacks and channel re-vegetation, and evaluation of possible related hydraulic impacts. The assessment shall recommend mitigation for all adverse impacts to water diversions, fish screen structures and criteria, and flood control facilities resulting from the proposed projects. The comprehensive study for the Sacramento River currently being prepared by the U.S. Army Corps of Engineers should provide the initial framework for such an assessment. Restoration projects shall not limit local flood control agencies' abilities to conduct activities that are reasonably necessary to properly operate and maintain existing flood control facilities and protect public safety. The California Reclamation Board should require a permit for any such restoration activities.
6. **Voluntary Transactions.** All land acquisitions, including property acquisition and purchase of easements, must be voluntary and on a willing seller or exchange basis. Condemnation for habitat purposes is unacceptable.
7. **Assurances.** CALFED, its successor or a multi-agency entity shall provide full and complete assurances to water suppliers and landowners potentially affected by land acquisition. These assurances should be an integral part of any CALFED conservation strategy and should be consistent with the Department of Interior's "no surprises" and "safe harbor" policies. CALFED, its successor or a multi-agency entity shall implement a "good neighbor" policy that requires the acquiring entity to respect and not interfere with existing land uses. For landowners and water suppliers that choose to participate in restoration activities, they should not be subject to typical endangered species mitigation requirements as long as there is a net benefit to the environment.

8. **Adaptive Management.** Adaptive project management shall be utilized to ensure resource benefits and project actions, and related events, do not conflict with human uses. Project modification and/or mitigation shall be utilized to protect people and their property.
9. **Liability.** CALFED, its successor, a multi-state entity or state and federal agencies shall accept legal and financial liability for all potential risks associated with these projects, and shall establish a contingency account to fund unforeseen circumstances resulting from project implementation. These funds shall fully cover all reasonable costs due to damage, increased operation and maintenance costs, and indirect costs associated with the implementation of these projects.
10. **Water Use.** CALFED must recognize the fundamental property right of those with water rights and the importance of water rights to local communities dependent upon area of origin water resources. Water applied for on-site habitat purposes shall not exceed historic application rates. Legal assurances shall be secured to ensure that appropriative water rights attached to acquired property remain with the property. In all cases, the burden should be on the acquiring party to show that there will be no water supply impacts that result from the land transaction.
11. **Local Ownership.** CALFED, its successor, a multi-state entity, or state and federal agencies shall turn over all land acquired for environmental purposes to a local California public agency, or a private non-profit entity to ensure that local assessments, taxes and charges shall continue to be paid.
12. **Measurable Outcomes.** CALFED must prioritize monitoring and research to assess the effectiveness of actions and improve understanding of hydrologic and riparian processes. Measurable objectives must be developed to gauge the success or failure of natural process replication. The degree to which natural processes can be restored to the Sacramento Valley is unknown in many cases because present conditions are dramatically different than those that existed 150 years ago. Since natural process replication principles are best applied to free-flowing streams, research and monitoring must support an adaptive management approach for regulated streams like the Sacramento River and its tributaries.